Real Estate Regulations Revision

Real Estate Community of Practice Conference

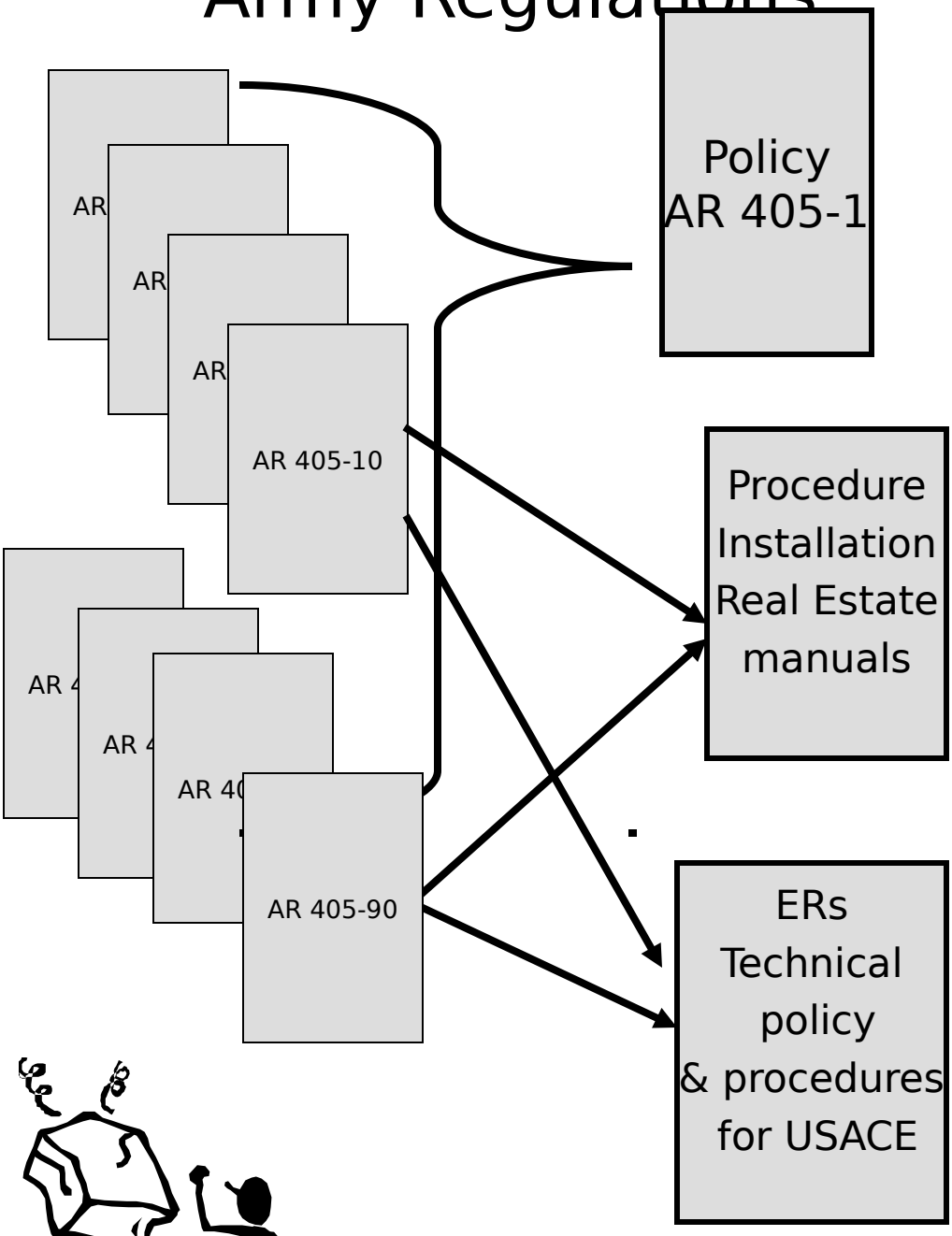
Real Estate Regulations Revision Topics

- Overview
- Background
- Army Regulations
- Engineer Regulations
- Delegations - Certification Process

Real Estate Regulations Revision Overview

- Regulations issued by the Chief of Engineers in real estate area:
  - Army Regulations, *Real Estate*:
    - AR 405-10, *Acquisition,* 15 July 1974,
    - AR 405-15, *Claims*, 1 Feb 1980
    - AR 405-16, *Homeowners Assistance Program,* 12 June 1992,
    - AR 405-20, *Jurisdiction*, 21 Feb 1974
    - AR 405-25, *Annexation*, 21 Feb 1974
    - AR 405-30, *Minerals*, 15 July 1984,
    - AR 405-80, *Management of Title and and Granting Use*, Nov 1997,
    - AR 405-90, *Disposal,* 10 May 1985.
  - ER 405-1-12, *Real Estate Handbook:*
    - **Chapter 1 to 16**

Real Estate Regulations Revision Army Regulations



Real Estate Regulations Revision Background

- Eight Task Forces
  - Real Estate experts from all Army real estate elements.
  - Chartered to revalidate, revise, consolidate, restructure, delete, coordinate and reissue regulations, as appropriate.
  - Not constrained by current regulation make-up or organization.
  - Incorporate changes in law or other initiatives since last published
  - What was the original purpose?
    - This has been the most difficult part of the effort.
    - Tendency is to just revise what is there.

Real Estate Regulations Revision Background

- Assess Risk and Delegate to lowest level
- DASA(I&H) retains decisions for actions
- Once decisions are made, execution delegated unless:
  - High risk actions
  - Controversial actions
  - Precedent setting actions
  - Protocol - another Agency's Secretary
- Implement delegations to named individuals, not positions

Real Estate Regulations Revision Army Regulations

- Army Regulations
  - 1st step revise – 10 to 30 years old
  - Effort started with publication of AR 405-80, 1997
  - Policy only
  - Procedure being moved to new Installation Real Estate Manual
    - IREM will be a manual to help the installations do their real estate actions
    - Not a regulation, not formal, examples, helpful hints
    - Online

Real Estate Regulations Revision Army Regulations

- DASA effort to consolidate ARs into new DPW regulation
  - Current draft AR 420-1, *Army Facilities Management* – being staffed with all regulations under ACSIM Facilities Division
  - Next stage to add other ACSIM offices
  - Last stage to add Chief of Engineers Real Estate regulation
    - COE will be chapter program proponent for Real Estate
- New Issue – unforeseen consequence
  - Army Publications office states only one Management Control Checklist per AR
    - Each function has checklist in separate ARs
    - Basis for CFO Act material weakness assurances

Real Estate Regulations Revision

AR 405-1, Real Estate Portfolio Management

Summary of Changes

- **Incorporates changes in law and changes in DOD Directives and Instructions for real estate (chaps 1 - 13).**
- **Eliminates detailed procedures from the regulation**
  - **procedure moved to handbooks, manuals or appropriate engineer regulations (chaps 4 – 13).**
- **Adds /Revises roles and responsibilities (chap 2)**
  - **Added for regulations that did not have**
  - **Revised to incorporate IMA and new role of Garrison Commander and MACOM with regard to real property (chap 2).**
  - **Revised for new Army Reserve organization**
  - **Defines delegations of authority to lower levels.**
- **Updates and consolidates delegations into one regulation and implements delegations to named individuals who met qualifying criteria, (chap 3)**
  - **HQUSACE establishes criteria**
- **Adds a new section on Appraisals (chap 4)**
- **Adds Rural Development Act acquisition requirements (chap 5)**
- **Replaces the historic “permit” with two new licenses**
  - **to eliminate confusion with regulatory permits that have developed in the last 30 years,**
  - **to align with Commercial Real Estate practices and Navy terminology, and**
  - **to reflect the differences between federal agencies (chap 8)**
- **Adds management control review checklists (app C).**

Real Estate Regulations Revision AR 405-1

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- Chapter 4 – Appraisal (new)
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- Chapter 6 – Minerals (former AR 405-30)
- Chapter 7 – Management of Title and Unauthorized uses
- Chapter 8 – Granting Use of Property
- Chapter 9 – Other Types of Instruments (former AR 405-80)
- Chapter 10 – Jurisdiction & Annexation. (former AR 405-20 and 25)
- Chapter 11 – Disposals (former AR 405-90)
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- ER 405-1-12, Real Estate Handbook
  - 16 chapters
  - 2 new chapters

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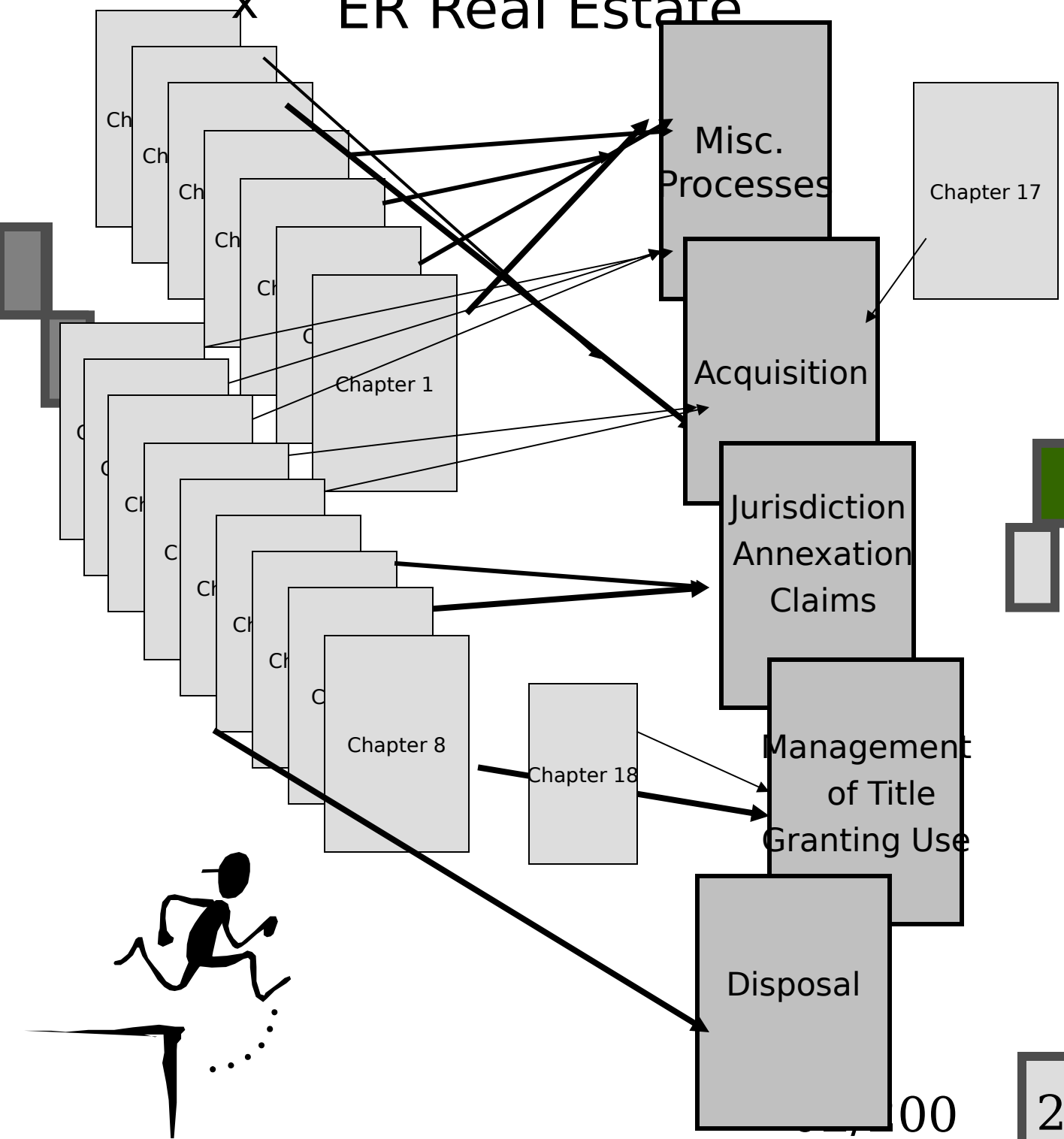

Real Estate Regulations Revision Engineer Regulations

- ER 405-1-12, Real Estate Handbook
  - 1st step revise each chapter
  - Each Task Force was asked to think outside the current codification and ask why we do it that way and what was it for? – Is the reason still valid? Can We Improve?
  - Don't just update what is there
  - Check each legislative citation
  - Check quoted sources. Is it still correct? Try not to quote, only reference.
  - If we are the source of the policy, what should we change?
  - Does HQ really need to see the action or do the directive? Delegate
  - GSA eliminated many referenced Standard Forms and repealed it FPMR with FMRs
  - Let's Be Innovative – But Legal
  - Evaluate type of Forms: ENG forms, RE systems or elec formats.

Real Estate Regulations Revision
ER – Real Estate

- Engineer Regulations - New Numbering Systems.
- Separate Regulations grouped by life cycle business process.
  - The numbering system is 405, for Real Estate
  - Middle digit - 1 for military/civil application, 2 if Civil only, 3 if Military only
  - Last 2 digits following the business process:
    - 0x for miscellaneous,
    - 1x for Acquisition,
    - 2x for legal issues,
    - 8x for Management, and
    - 9x for Disposal.
  - Name changes to better define the current policy and procedure covered by the circular.
- New system allows functional grouping
- Ability to add new topics at later dates within the functional area

ER 405-1-12

ER 405-1-12 Chapter number	Title	New Circular
Chapter 1	RE Programming and Control	EC 405-1-01, Program Management & Control
Chapter 2	RE Project Planning – Military & CW	EC 405-3-10, Military Planning
Chapter 3	Mapping	EC 405-1-03, Mapping
Chapter 4	Appraisal	by EC 405-1-04, Appraisal
Chapter 5	Acquisition	EC 405-1-11, Acquisition
Chapter 6	Relocation Assistance Program	EC 405-1-15, Identity, EC 405-1-16, Relocation Assistance
Chapter 7	Homeowners Assistance Program	
Chapter 8	Real Property Management	EC 405-1-80, Management and Outgrant Programs
Chapter 9	Federal Legislative Jurisdiction & Annexation	EC 405-1-20, Jurisdiction, Annexation, and Claims
Chapter 10	Real Estate Claims	EC 405-1-20, Jurisdiction, Annexation, and Claims
Chapter 11	Disposal	EC 405-1-90, Disposal
Chapter 12	Roles & Responsibilities for Civil Works: Cost Shared &Full Federal Proj	EC 405-2-12, Roles and Responsibilities: Civil Works
Chapter 13	Real Estate Audit	EC 405-1-13, Validation Process & Historical Files
Chapter 14	Recording and Reporting	EC 405-1-01, PM&C above
Chapter 15	Real Estate Resource Management	EC 405-1-01, PM&C above
Chapter 16	Real Property Accountability	EC 405-1-02, Inventory Management, Accountability & Documentation
new	Relocation of Utilities and Facilities	EC 405-1-17, Relocation of Utilities and Facilities
new	McKinney Act	EC 405-1-80, Management above

Original ER

Added

02/200

Real Estate Regulations Revision Engineer Regulations

- **Misc Real Estate processes**
  - **EC 405-1-01, RE – Program Management and Control**
    - Chapter 1, Real Estate PM and Control
    - Chapter 14, Recording, Reporting, {and RE Information Systems}
    - Chapter 15, Real Estate Resource Management
  - **EC 405-1-02, RE – Project Inventory Management, Accountability and Documentation**
    - Chapter 16, Project Inventory Management, Accountability and Documentation
  - **EC 405-1-03, Real Estate – Mapping**
    - Chapter 3, Mapping
  - **EC 405-1-04, Real Estate – Appraisal**
    - Chapter 4, Appraisal

Real Estate Regulations Revision
ER Real Estate

Summary of Changes - Misc

- PMBP
- New information systems, e.g. P2
- Internal control reviews
- Management Control Evaluation Certification Statement and the annual assurance statements
- Command Management Review (CMR) measurements
- CFO Act issues in real property inventory
  - role of the Real Property Accountable Officer (RPAO) and the hand receipt holder (HRH)
  - Physical Inspection
  - Numbering systems for facilities Valuation methods
- Mapping – updated for digital, GIS, CADD
- Appraisal – unique properties

Real Estate Regulations Revision Engineer Regulations

Acquisition

- **EC 405-3-10 – Real Estate – Planning**
  - Chapter 2, Real Estate Project Planning, Military
- **ER 405-1-11 – Real Estate – Acquisition**
  - Chapter 5, Acquisition
- **EC 405-2-12 – Real Estate - Roles and Responsibilities: Civil Works**
  - Chapter 12, Real Estate Roles and Responsibilities for Civil Works: Cost Shared and Full Federal Projects
- **EC 405-1-13 – Real Estate – Validation Process and Historical Files**
  - Chapter 13, Historical Records and Validation Process
- **EC 405-1-15 – Real Estate – Inleasing**
  - Inleasing *(pulled out of the old Chapter 5)*
- **EC 405-1-16 – Real Estate – Relocation Assistance**
  - Chapter 6, Relocation Assistance
- E**C 405-1-17 – Real Estate – Relocation of Utilities and Facilities**
  - Chapter 17, Relocation of Utilities and Facilities w/Agreements

Real Estate Regulations Revision
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Summary of Changes – Acquisition

- Planning chapter split into Military and Civil Works
- District is delegated authority to proceed with acquisition where:
  - Legislative authorization, appropriation is available, requirements have been validated by the appropriate approving official, and necessary clearances have been obtained
- Clarified that Projects done for non-DOD entities will follow their authorities, policy and regulations – not DA
- New DOJ Guidance on acquisition and titles
- Clarifies roles and qualifications of closing agent and reviewing attorney
- Moves inleasing and Condemnation to a separate ECs
- Updating Roles & Responsibilities for CW projects
- Focus of review of files changed from rigid assembly to a fiduciary validation, inherent governmental oversight, & QA/QC process
  - Team approach - validate as you go
- Inleasing – delegated retained HQ reviews to field
- Rural Development Act – added
- Relocation Assistance – revision to the Uniform Act
  - Appeals to the Division are final, unless applicant request HQ review
- Add Relocation of Utilities and Facilities
  - Has bumped around from the old Engineering Contract book, EFARS and back to real estate – not a FAR contract

Real Estate Regulations Revision Engineer Regulations

- **Jurisdiction, Annexation, and Claims**
  - **EC 405-1-20, Real Estate – Jurisdiction, Annexation, and Claims**
    - Chapter 9a, Legislative Jurisdiction
    - Chapter 9b, Annexation
    - Chapter 10, Claims

Real Estate Regulations Revision
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Summary of Changes – Jurisdiction, Annexation & Claims

- Changes in Jurisdiction Assembly
  - Incorporates new Title 40 citations and changes
- Eliminates Annexation Assembly unless object to annexation
  - Notice only if do not
- Claims
  - Changes in who hears disputed claims – GAO replaced by Treasury
  - Clarifies cross District claims
  - Changes in judicial interpretation on taking claims (no longer implied contract needed)
  - Changes from Army Claims Service

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Engineer Regulations

- **Management of Title and Granting Use**
  - **EC 405-1-80, Real Estate – Management of Title**
    - Chapter 1, Roles and Responsibilities *(old section from chapter 8, new number)*
    - Chapter 2, Management of Title *(old section from chapter 8, new number)*
    - Chapter 3, Stewart B. McKinney Act Procedures *(new number)*
    - Chapter 8, Granting Use

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Summary of Changes – Management of Title

- Roles & Responsibilities under PMBP & USACE 2012
- Updates on encroachments
- New EO 13327, Asset Management
- FPMR replaced by FMR/Title 40 recodified
- Adds Stewart B. McKinney Act Procedures – previously in memos
- Expanded discussion of Consideration, Mitigation of damages, and Administrative Expenses
- Increased execution delegation & named individual process
- new section on other documents, e.g. Cooperative Agreements
- Changes in 10 USC 2667 - Enhanced Use Leasing
- Eliminates Permit to federal agencies and creates two new licenses: 1) to DOD components and 2) to other Federal agencies

Real Estate Regulations Revision Engineer Regulations

- **Disposal**
  - **EC 405-1-90, Real Estate – Disposal**
    - Chapter 1, Roles and Responsibilities *(old section from chapter 11, new number)*
    - Chapter 11, Disposal

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- Summary of Changes – Disposal
  - New section on preparation of deeds
  - Revisions to Environmental section
  - Model Deed template
  - New Administrative Expenses and Closing costs policy
  - Title 40 recodified
  - FPMR replaced by FMR